

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Linda S. Darga,

Plaintiff,

vs.

UNUM Life Insurance Company of
America,

Defendant.

2:23-cv-00918-DCN

COMPLAINT

E.R.I.S.A - Non-Jury

Plaintiff Linda S. Darga, by and through her undersigned counsel, complaining of the above-named Defendant UNUM Life Insurance Company, would respectfully show unto this Honorable Court the following:

JURISDICTION AND VENUE

1. Plaintiff is a citizen and resident of Berkeley County, South Carolina.
2. Prior to her disability, Plaintiff worked for CVS Pharmacy, Inc.
3. Upon information and belief, CVS Pharmacy created an employee welfare benefits plan for the purpose of providing long term disability (LTD) benefits to its employees.
4. At all times material to the allegations contained here, Plaintiff Linda S. Darga was a participant in the CVS Pharmacy Long Term Disability Plan (hereinafter “the Plan”).
5. Upon information and belief, CVS Pharmacy, Inc. established and/or maintained a policy of group insurance with UNUM Life Insurance Company (hereinafter “UNUM”) in order to fund LTD benefits to its employees who chose to participate in the LTD Plan.
6. Upon information and belief, Defendant UNUM is the insurer and claims administrator of

the LTD Plan.

7. Defendant UNUM is a fiduciary with respect to the LTD Plan.
8. The LTD Plan is governed by the Employee Retirement and Income Security Act of 1974 (hereinafter “ERISA”), 29 U.S.C. § 1001, *et seq.*
9. Pursuant to 29 U.S.C. §1132(e), this Court has jurisdiction over Plaintiff’s claims.

FACTUAL ALLEGATIONS

10. Prior to her disability, Linda S. Darga enrolled in the LTD Plan.
11. Since September 11, 2021, Plaintiff has been unable to perform the material and substantial duties of her Own Occupation or Any Occupation due various medical problems.
12. After she became disabled, Plaintiff applied for LTD benefits.
13. On June 2, 2022, Defendant UNUM denied Plaintiff’s LTD claim.
14. On November 30, 2022, Plaintiff timely appealed UNUM’s denial decision.
15. On February 23, 2023, Defendant UNUM denied Plaintiff’s appeal.
16. Plaintiff has exhausted all administrative remedies under the Plan.
17. Despite Plaintiff’s continuous total disability since September 11, 2021, Defendant UNUM has wrongfully failed to pay LTD benefits to Plaintiff as required by the Plan.

CAUSE OF ACTION

Plaintiff’s Claim for LTD, pursuant to 29 U.S.C. §§ 1132(a)(1)(B)

18. Plaintiff incorporates all prior allegations herein, where not inconsistent, as if fully set forth herein.
19. Plaintiff has been totally disabled from performing the material duties of her regular

occupation or any other occupation for which she is reasonably qualified since September 11, 2021.

20. Plaintiff is entitled to LTD benefits under the Plan.
21. Plaintiff has been totally disabled from performing the material duties of her own occupation and/or any other occupation for which she is capable of performing by way of education, training, or experience, and is entitled to LTD benefits to the maximum age under the terms of the Plan as described above.
22. Plaintiff seeks LTD benefits under the terms of the Plan, to enforce her rights under the terms of the Plans, and to clarify her rights to future benefits under the terms of the Plans, pursuant to 29 U.S.C. §1132(a)(1)(B).
23. Plaintiff respectfully requests that the Court order Defendant UNUM to pay all amounts due and owing for the Plaintiff's LTD benefits under the terms of the LTD Plan pursuant to 29 U.S.C. § 1132(a)(1)(B).
24. Pursuant to 29 U.S.C. §1132(g), Plaintiff also respectfully requests that the court grant Plaintiff's attorneys fees and costs.

WHEREFORE, Plaintiff Linda S. Darga prays for judgment directing Defendant UNUM Life Insurance Company to pay Plaintiff's LTD benefits pursuant to the CVS Pharmacy, Inc., Long Term Disability Plan, attorneys fees and costs, and all such further relief as the Court deems just and proper.

[signature on following page]

Respectfully Submitted,

s/John R. Peace

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March 6, 2023